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C O N F I D E N T I A L BUCHAREST 001883

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DEPT FOR EUR/NCE AARON JENSEN AND EUR/NCE DAVID KOSTELANCIK

E.O. 12958: DECL: 12/19/2016
TAGS: [CASC](#) [PGOV](#) [PREL](#) [MARR](#) [KJUS](#) [IZ](#) [RO](#)
SUBJECT: COMMUNICATION IN MUNAF CASE

REF: STATE 196211

Classified By: Political Counselor Ted Tanoue for Reasons 1.4 (b) and (d).

¶1. (C) DCM accompanied by PolCouns and Resident Legal Advisor met with representatives from the Romanian Ministry of Justice and the Foreign Ministry December 19 to discuss reftel request to streamline communications between the USG and GOR regarding the Munaf case. DCM underscored the need for a formal, deliberate, and better-coordinated mechanism for bilateral communications given past miscommunications and the need to keep track of the requests and responses from a number of parties. He requested GOR help by sending all future requests for U.S. assistance in the Munaf case through the Romanian MFA and Embassy Bucharest, avoiding the use of e-mails, phone calls, and other non-record communications. DCM also stressed that the USG side had endeavored to avoid discussing the issue through the press, and requested the GOR side do likewise.

¶2. (C) MOJ International Law Director Florin Razvan Radu initially responded that his ministry had communicated with the USG side through formal written requests--as evidenced by a November 1, 2006 letter that Justice Minister Macovei had sent to U.S. Attorney General Gonzales and Defense Secretary Rumsfeld (see para 3). He subsequently acknowledged, however, that this letter had not been copied to the Foreign Ministry or to the U.S. Embassy. He admitted that Romanian prosecutors gone to Baghdad without informing the MOJ and had communicated directly with Coalition and USG officials in the past. Participants agreed that future communications in the Munaf case would be coursed through the Middle East and Africa Desk at the MFA and the Political Section at the Embassy Bucharest, either in the form of a diplomatic note or other formal written format. In closing, Radu noted that the Romanian court handling the Munaf case had requested assistance in interviewing Munaf on 18 January. He agreed to provide the Embassy with a written request by week's end.

¶3. (SBU) Text of the Macovei-Gonzales and Macovei-Rumsfeld letters follows:

No. 94615/2006
Bucharest, November 1, 2006

Mr. Alberto R. Gonzales
Attorney General
United States Department of Justice

Cc
Mr. Donald H. Rumsfeld
Secretary of Defense

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Dear Attorney General,

I am writing this letter referring to the "Munaf" case) Mr. Mohammad Munaf, son of Munaf Amin and Suad Omar, born on 29 November 1962, U.S.) Iraqi citizen, who has been recently convicted to death penalty by the Iraqi Central Criminal Court in Baghdad. Apparently the sentence was held for the same terrorism crimes for which the Romanian authorities had first affirmed their jurisdiction.

Romania's jurisdiction is based on existing principles of international law and our country has a sound interest in solving this case considering the Romanian citizenship of the victims and the public impact it has had in Romania.

After the meeting we had at Washington in November 2005 I was convinced that the U.S. Government would effectively assist the Romanian authorities for exerting their jurisdiction over the case.

As the Romanian authorities have been directed to the Iraqi authorities, since December 2005 we addressed several requests for mutual assistance. The purpose of such endeavors was to ensure that the Romanian judicial authorities hear Mr. Mohammad Munaf in the terrorism case brought before our criminal courts.

However the Romanian authorities' efforts have (sic) fruitless so far. The Iraqi authorities did not execute the request for servicing the summons and hearing by video conference, motivating that there is no Iraqi jurisdiction in respect to Mr. Mohammad Munaf. Therefore, the fact that Mr. Mohammad Munaf was convicted by an Iraqi court under the Iraqi law for his terrorism activity comes as a surprise, considering the previous denial of Iraqi's jurisdiction.

You will for sure understand that bringing Mr. Mohammad Munaf before the Romanian justice is definitely a priority of the judicial authorities in Romania. Thus, given that the U.S. Court of Appeals ordered on October 27, 2006 that Mr. Mohammad Munaf shall not be transferred to Iraqi custody before November 6, 2006 in order to give him "an opportunity to seek relief from the Supreme Court", I am kindly requesting your full support in our efforts to have Mr. Mohammad Munaf heard by the Romanian Courts before being transferred to the Iraqi authorities. He has to be heard as accused in the file no. 6595/2/2006 of the Court of Appeal Bucharest and as witness in the file no. 33970/2/2005 of the same court.

This terrorism case is related to a conflict of jurisdiction between Iraqi and Romanian criminal justice systems. In respect of international law principles, taking into account the Romanian citizenship of the victims and the others circumstances of the case, I am convinced that there is no argument against allowing Mr. Mohammad Munaf be heard by the Romanian courts through the international assistance means. This will be not only in the interest of justice, supporting our endeavors to clarify the case, but will respond as well to our obligation to observe the rights universally recognized to everyone charge with a criminal offence.

Please do not hesitate to contact me at monica.macovei@just.ro / phone: 0040.21.311.22.66. Also in charge is Mr. Florin Razvan RADU, director for International Law who can be reached at rradu@just.ro / phone: 0040.21.314.15.14.

I hereby attached (sic) some copies of the relevant correspondence with the U.S. Government's representatives.

Convinced of positive reaction and full support,
Yours sincerely,

Monica Macovei
/s/

Minister of Justice

End Text

TAUBMAN